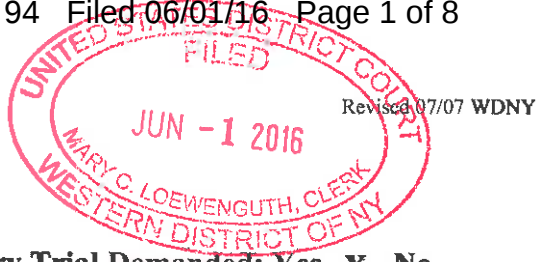


**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**



WALTER BUCKINGHAM

Jury Trial Demanded: Yes X No

Name(s) of Plaintiff or Plaintiffs

-vs-

LEWIS GENERAL TIRES, INC.

DISCRIMINATION COMPLAINT

13 -CV- 6264L

Name of Defendant or Defendants

AMENDED

You should attach a copy of your **original Equal Employment Opportunity Commission (EEOC) complaint**, a copy of the Equal Employment Opportunity Commission **decision**, AND a copy of the **"Right to Sue"** letter you received from the EEOC to this complaint. Failure to do so may delay your case.

Note: Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court under the federal employment discrimination statutes.

This action is brought for discrimination in employment pursuant to (*check only those that apply*):

 X Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (amended in 1972, 1978 and by the Civil Rights Act of 1991, Pub.L.No. 102-166) (race, color, gender, religion, national origin).

NOTE: In order to bring suit in federal district court under Title VII, you **must first obtain a right to sue letter** from the Equal Employment Opportunity Commission.

 Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621-634 (amended in 1984, 1990, and by the Age Discrimination in Employment Amendments of 1986, Pub.L.No. 99-592, the Civil Rights Act of 1991, Pub.L.No. 102-166).

NOTE: In order to bring suit in federal district court under the Age Discrimination in Employment Act, you **must first file charges** with the Equal Employment Opportunity Commission.

 Americans with Disabilities Act of 1990, as codified, 42 U.S.C. §§ 12112-12117 (amended by the Civil Rights Act of 1991, Pub.L.No. 102-166).

NOTE: In order to bring suit in federal district court under the Americans with Disabilities Act, you **must first obtain a right to sue letter** from the Equal Employment Opportunity Commission.

JURISDICTION is specifically conferred upon this United States District Court by the aforementioned statutes, as well as 28 U.S.C. §§ 1331, 1343. Jurisdiction may also be appropriate under 42 U.S.C. §§ 1981, 1983 and 1985(3), as amended by the Civil Rights Act of 1991, Pub.L.No. 102-166, and any related claims under New York law.

In addition to the federal claims indicated above, you may wish to include New York State claims, pursuant to 28 U.S.C. § 1367(a).

_____ New York State Human Rights Law, N.Y. Exec. Law §§ 290 to 297 (age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, marital status).

PARTIES

1. My address is: 16 ELK STREET
ROCHESTER NEW YORK 14615

My telephone number is: (585) 254-7917

2. The name of the employer(s), labor organization, employment agency, apprenticeship committee, state or local government agency who I believe discriminated against me is/are as follows:

Name: LEWIS GENERAL TIRES, INC.

Number of employees: _____

Address: 3870 WEST HENRIETTA ROAD
ROCHESTER NEW YORK 14623

3. (If different than the above), the name and/or the address of the defendant with whom I sought employment, was employed by, received my paycheck from or whom I believed also controlled the terms and conditions under which I were paid or worked. (For example, you worked for a subsidiary of a larger company and that larger company set personnel policies and issued you your paycheck).

Name: _____

Address: _____

CLAIMS

4. I was first employed by the defendant on (date): JULY 6, 2010

did issue a Right to Sue letter, you **must attach** one copy of the decision to **each** copy of the complaint; failure to do so will delay the initiation of your case.)

13. I am complaining in this action of the following types of actions by the defendants:

- a. _____ Failure to provide me with reasonable accommodations to the application process
- b. _____ Failure to employ me
- c. X Termination of my employment
- d. _____ Failure to promote me
- e. _____ Failure to provide me with reasonable accommodations so I can perform the essential functions of my job
- f. _____ Harassment on the basis of my sex
- g. _____ Harassment on the basis of unequal terms and conditions of my employment
- h. X Retaliation because I complained about discrimination or harassment directed toward me
- i. _____ Retaliation because I complained about discrimination or harassment directed toward others
- j. X Other actions (please describe) Breach of contract.- discriminated against me
Because of my race and color I'm an Black African-American male.- I heard
two white males, saying we do not need any blacks working for our company.

14. Defendant's conduct is discriminatory with respect to which of the following (*check all that apply*):

- | | |
|--------------------------|---|
| a. <u> X </u> Race | f. _____ Sexual Harassment |
| b. <u> X </u> Color | g. _____ Age |
| c. _____ Sex | _____ Date of birth |
| d. _____ Religion | h. _____ Disability |
| e. _____ National Origin | Are you incorrectly perceived as being disabled by your employer? |
| | _____ yes _____ no |

15. I believe that I was X /was not _____ **intentionally** discriminated against by the defendant(s).

16. I believe that the defendant(s) is/are X is not/are not _____ still committing these acts against me. (If you answer is that the acts are not still being committed, state when: _____ and why the defendant(s) stopped committing these acts against you: _____)

17. **A copy of the charge to the Equal Employment Opportunity Commission is attached to this complaint and is submitted as a brief statement of the facts of my claim.** (NOTE: You must attach a copy of the **original complaint** you filed with the Equal Employment Opportunity Commission and a copy of the **Equal Employment Opportunity Commission affidavit** to this complaint; failure to do so will delay initiation of your case.)

18. The Equal Employment Opportunity Commission (*check one*):

_____ **has not** issued a Right to sue letter

X **has** issued a Right to sue letter, which I received on March 18, 2013

19. State here as briefly as possible the *facts* of your case. Describe how each defendant is involved, including *dates* and *places*. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. (*Use as much space as you need. Attach extra sheets if necessary.*)

(1).On March 29, 2012. I heard people making racial slurs while on my job, at Lewis General Tires, Inc. Located at 3870 west Henrietta Road, Rochester, NY 14623. I overheard two white males, while I was In the rest room stall in the commercial department, make the following racial slurs, "We do not need any blacks working for our company.

(2).On May 16, 2012, I was the only black African-American employee, working for Lewis General Tires, Inc. I was told that I was laid off, because they stated that they didn't have any work for me to do, but Craig Lewis have posted hiring ads on craigslist for an tire technician position before May 16, 2012 and After.

(3). On May 18, 2012 Lewis General Tires, Inc. indicated that I was terminated not laid off. It was apparent To me that Lewis General Tires, Inc., discriminated against me, due to hiring caucasians to fill my job Position with less experience or no experience at all. See Attachment: (4) breach of contract

FOR LITIGANTS ALLEGING AGE DISCRIMINATION

20. Since filing my charge of age discrimination with the Equal Employment Opportunity Commission regarding defendant's alleged discriminatory conduct _____ 60 days or more have elapsed _____ less than 60 days have elapsed

FOR LITIGANTS ALLEGING AN AMERICANS WITH DISABILITIES ACT CLAIM

21. I first disclosed my disability to my employer (or my employer first became aware of my disability on _____)

22. The date on which I first asked my employer for reasonable accommodation of my disability is _____
23. The reasonable accommodations for my disability (if any) that my employer provided to me are: _____
24. The reasonable accommodation provided to me by my employer were ____/were not ____ effective.

WHEREFORE, I respectfully request this Court to grant me such relief as may be appropriate, including injunctive orders, damages, costs and attorney's fees.

Dated: May 31, 2016

Walter B. Kingham

Plaintiff's Signature

ATTACHMENT SHEET

19. State here as briefly as possible the facts of your case. Describe how each defendant is involved, including dates and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. (Use as much space as you need. Attach extra sheets if necessary.) ☐

(4). Breach of Contract:

On April 18, 2012, Lewis General Tires, Inc. held a meeting with I, Walter Buckingham, (Treasurer Controller) Manny D' Ambrosio, (Owners) Craig Lewis and Richard Lewis. In this meeting there was a contract signed by all of us. The contract stated that *Walter is expected to return to work Saturdays on June 2, 2012.* The Breach of Contract is that they intentionally failed to abide by the signed contract by terminating my employment on May 16, 2012.

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: **Walter Buckingham**
16 Elk Street
Rochester, NY 14615

From: **New York District Office**
33 Whitehall Street
5th Floor
New York, NY 10004



On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(e))

EEOC Charge No.

EEOC Representative

Telephone No.

16G-2012-03497

Holly M. Woodyard,
Investigator

(212) 336-3643**THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:**

The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans With Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge.



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

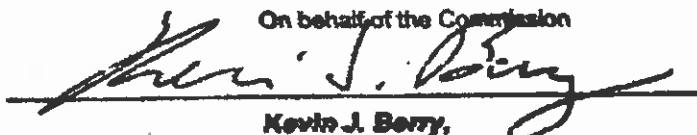
- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed **WITHIN 90 DAYS** of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred **more than 2 years (3 years)** before you file suit may not be collectible.

On behalf of the Commission


Kevin J. Berry,
District Director

March 15, 2013

(Date Mailed)

Enclosure(s)

cc:

LEWIS GENERAL TIRE, INC.
Attn: Director of Human Resources
3870 West Henrietta Road
Rochester, NY 14623